

# In the Court of Appeals of the State of Alaska

**Abraham E Henry,**  
Appellant,

v.

**State of Alaska,**  
Appellee.

Court of Appeals No. **A-13145**

## **Order**

Date of Order: **April 3, 2020**

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Trial Court Case No. **4FA-12-01224CI**

Marilyn Kamm represents the Appellant, Abraham Henry, in this matter. This Court previously ordered Ms. Kamm to file the opening brief by April 1, 2020, after multiple extensions of time totaling over 500 days. Ms. Kamm has now filed a motion to supplement the points on appeal, a motion to supplement the record, and a motion to amend the designation of transcript. The State has not filed a response.

Ms. Kamm intends to argue that Henry did not knowingly and voluntarily waive his right to counsel in this post-conviction relief proceeding. She notes that, before definitively ruling that Henry could appear *pro se*, Superior Court Judge Paul R. Lyle stated that he would review the file in another one of Henry's post-conviction relief cases, 4FA-12-01282 CI, and listen to a hearing in that case, at which the question of whether Henry had an impaired ability to make timely decisions was litigated. Ms. Kamm has moved to supplement the appellate record in this case with the entire record in 4FA-12-01282 CI, as well as the hearing that Judge Lyle referenced.

We have reviewed Judge Lyle's final written order on Henry's request to represent himself in this case. In that order, Judge Lyle stated that he had reviewed the file in 4FA-12-01282 CI, "but found it unnecessary to review the audio of the hearing." Judge Lyle found that a review of the court's decision in 4FA-12-01282 CI and the State's exhibits upon which that court relied was sufficient to establish that, "despite Mr. Henry's diagnosed alcohol dependence, PTSD, and major depressive disorder, he is

minimally capable of presenting his case in a coherent manner.”

Accordingly, **IT IS ORDERED:**

1. The motion to supplement the points on appeal is **GRANTED**.
2. The motion to supplement the record is **GRANTED IN PART**. The Appellate Court Records Office shall prepare and forward a supplemental scanned record containing the superior court’s November 24, 2014 order in 4FA-12-01282 CI and the exhibits referenced therein.
3. The motion to designate the November 17, 2014 hearing in 4FA-12-01282 CI for transcription is **DENIED**.
4. Under the Appellate Courts Administrative Order dated March 27, 2020 governing the relaxation and suspension of Appellate Rules based on the COVID-19 pandemic, the deadline for filing the opening brief in this case was extended to May 1, 2020. The opening brief in this case shall be due on May 1, 2020, or 15 days following distribution of the supplemental record, whichever is later.

Entered at the direction of Judge Wollenberg.

Clerk of the Appellate Courts



Beth A. Pechota, Deputy Clerk

cc: Court of Appeals Judges  
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